

RECEIVED  
CENTRAL FAX CENTER  
NOV 02 2006

Serial No. 09/831,432  
Art Unit: 1751

### REMARKS

Claims 14, 18 and 30 have been amended to indicate that the alkoxylated carboxylic acid ester has a narrow homolog distribution. This limitation is set out in the specification at page 4, lines 1-3. The claims have also been limited to an anionic surfactant free composition.

In addition, claim 16 has been amended to indicate that the alkoxylated carboxylic acid esters are prepared by reacting a carboxylic acid ester and an alkylene oxide in the presence of calcined hydrotalcite. The amendment to claim 16 corrects an obvious error since reacting a carboxylic acid and an alkylene oxide does not produce an alkoxylated carboxylic acid ester. Applicants respectfully submit that the claim as amended is fully supported in the specification.

Applicants respectfully submit that the amendments to the claims do not enter new matter and in addition place the claims in condition for allowance. Favorable consideration of the claims in their amended form is respectfully requested.

Claims 14-17, 25-28, 31, 33-35 stand rejected under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over JP 05-202382 (hereinafter JP).

Applicants respectfully submit that JP fails as a reference upon which a rejection under 35 USC 102(b) can be based in that the reference is completely silent concerning utilization of an alkoxylated carboxylic acid ester having a narrow homolog distribution in an anionic surfactant free composition. Applicants respectfully submit that to be a reference upon which a rejection under 35 USC 102(b) can be based, the reference must disclose each and every limitation in the claim. Applicants respectfully submit that JP neither teaches nor suggests a composition containing an alkoxylated fatty acid ester with a narrow homolog distribution in an anionic surfactant free composition. Applicants therefore respectfully request that the rejection be reconsidered and withdrawn.

The rejection under 35 USC 103(a) also must fail since there is neither teaching

**Serial No. 09/831,432**

**Art Unit: 1751**

nor suggestion in the abstract of utilizing an alkoxylated fatty acid ester with a narrow homolog distribution in an anionic surfactant free composition. Applicants therefore respectfully request that the rejection under 35 USC 103(a) be reconsidered and withdrawn.

Claims 18-19, 24, 29-30 and 32-36 stand rejected under 35 USC 103(a) as unpatentable over JP in view of Haerer et al. (US 5,602,093). Applicants respectfully submit that JP and Haerer et al. whether considered alone or in combination neither teach nor suggest the present invention.

JP has been discussed above and is deficient in neither teaching nor suggesting utilizing an alkoxylated fatty acid ester with a narrow homolog distribution in an anionic surfactant free composition. The deficiencies in JP are not cured by combination with Haerer et al. Haerer et al. is deficient in neither teaching nor suggesting a composition containing an alkoxylated fatty acid ester. Since there are no alkoxylated fatty acid esters disclosed in Haerer et al., Applicants respectfully submit that the reference cannot cure the deficiencies in JP in requiring that the alkoxylated fatty acid ester be an alkoxylated fatty acid ester with a narrow homolog distribution. Applicants therefore respectfully submit that the combination of JP and Haerer et al. neither teach nor suggest the present invention. Applicants therefore respectfully request that the rejection be reconsidered and withdrawn.

Claims 21-22 stand rejected under 35 USC 103(a) as unpatentable over JP in view of Lewis (US 5,612,305). Applicants respectfully submit that JP and Lewis whether considered alone or in combination neither teach nor suggest the present invention.

Applicants respectfully submit that as discussed above, JP neither teaches nor suggests the present invention. That is, JP neither teaches nor suggests that the alkoxylated fatty acid ester be an alkoxylated fatty acid ester with a narrow homolog distribution range and be part of an anionic surfactant free composition. The deficiencies in JP are not cured by combination with Lewis. Lewis discloses mixed

**Serial No. 09/831,432**

**Art Unit: 1751**

surfactant systems for low foam applications. However, none of the mixed surfactants comprise an alkoxyated fatty acid ester with a narrow homolog distribution. Applicants therefore respectfully submit that Lewis does not cure the deficiencies in JP.

In addition, Applicants invite the Examiner's attention to Lewis particularly at column 18, beginning at line 55 through column 19, line 32. As pointed out by Lewis, not all nonionic surfactants are compatible with each other. Compatibility is a requirement for providing a composition with useful properties. Since one cannot helter skelter mix various nonionic surfactants to provide a useful composition, one skilled in the art would have to do an undue amount of experimental testing to arrive at a nonionic compatible surfactant mixture including the alkoxyated fatty acid esters with the narrow homolog distribution. In view of the undue experimentation which would be required to combine the teachings of Lewis with JP, Applicants respectfully submit that the rejection is based on hindsight reconstruction of Applicants' invention. Favorable consideration and allowance of the claims is respectfully requested.

Claims 20-23 stand rejected under 35 USC 103(a) as unpatentable over JP in view of Kwetkat et al. (US 6,156,721). Applicants respectfully submit that JP and Kwetkat et al. whether considered alone or in combination neither teach nor suggest the present invention.

The deficiencies in JP have been discussed above, the deficiencies in the reference are not cured by combination with Kwetkat et al. In the Official Action, the Examiner is mischaracterizing the teachings of Kwetkat et al. Clearly, Kwetkat et al. is directed to a surfactant composition containing a particular gemini surfactant which is an anionic surfactant. The additional nonionic surfactants suggested in Kwetkat et al. for inclusion in the surfactant mixture containing the gemini anionic surfactant, are the hydroxyl mixed ethers and the N-methyl alkylglucamides. The combination of the gemini anionic surfactants with the hydroxyl mixed ethers and the N-methyl alkylglucamides, in combination with JP, would neither teach nor suggest the present invention which requires an anionic surfactant free composition.

**Serial No. 09/831,432**  
**Art Unit: 1751**

JP is directed to a nonionic surfactant which the Examiner states can be mixed with the various surfactants disclosed in Kwetkat et al. However, Applicants respectfully submit that the Kwetkat et al. composition is clearly different and distinct from the composition of JP and the composition of the present invention. As disclosed in Kwetkat et al., the composition must contain the gemini anionic surfactant. In view of the strict requirements for a rinse aid composition, Applicants submit that a reference which discloses a mixture of nonionic and anionic surfactants and in particular the gemini surfactants would neither teach nor suggest that the additional nonionic surfactants would be useful in the composition of the present invention. Applicants submit that a composition containing a specific gemini surfactant along with additional nonionic surfactants, would neither teach nor suggest to one skilled in the art to include the nonionic surfactants in a composition containing an alkoxylated fatty acid ester with a narrow homolog distribution. Applicants therefore respectfully submit that the combination of JP with Kwetkat et al. neither teaches nor suggests the present invention and a rejection based thereon is untenable. Applicants respectfully request that the rejection be reconsidered and withdrawn.

Claims 31-36 stand rejected under 35 USC 103(a) as unpatentable over Hees et al. (US 5, 753,606) in view of Haerer et al. (US 5,759,987). Applicants respectfully submit that Hees et al. and Haerer et al. whether considered alone or in combination neither teach nor suggest the present invention.

Hees et al. is directed to a liquid detergent and multi-purpose cleaner. In one preferred embodiment the liquid detergent and multi-purpose cleaner additionally contains an anionic surfactant.

The basic composition comprises a C<sub>8-16</sub> alkylpolyglycoside and an alkoxylated fatty acid ester. The examples in Hees et al. contain substantial amounts of anionic surfactants. This is consistent with the need for anionic surfactants in general purpose cleaning compositions. Applicants respectfully submit that Hees et al. would neither teach nor suggest the anionic surfactant-free composition of the present invention. In

**Serial No. 09/831,432**

**Art Unit: 1751**

addition, Hees et al. neither teaches nor suggests that the alkoxyated fatty acid ester comprise a narrow homolog distribution composition. Applicants respectfully submit that Hees et al. neither teaches nor suggests the present invention.

The deficiencies in Hees et al. are not cured by combination with Haerer et al. '987. Haerer et al. '987 discloses rinse aid compositions for hard surfaces containing capped and uncapped mixed ethers. There is neither teaching nor suggestion that the composition contain an ethoxylated fatty acid ester.

The deficiencies in Hees et al. are not cured by combination with Haerer et al. '987. To arrive at the present invention, one skilled in the art would have to remove the anionic surfactants present in the Hees et al. composition and replace them with the alkoxyated alcohols which are already present in the anionic surfactant containing Hees et al. composition. Applicants respectfully submit that the combination of Hees et al. with Haerer et al. would neither teach nor suggest to one skilled in the art the present invention.

In addition to the compositions of the various materials set forth in the prior art references, one skilled in the art would be mindful of the teachings of Lewis which clearly shows that one cannot helter skelter mix various nonionic surfactants because of the incompatibility of seemingly closely related nonionic surfactants. Applicants submit that to make the combination which the Examiner has proposed is merely an invitation to experiment. Applicants submit that in view of the teachings of Lewis, one skilled in the art cannot automatically visualize a combination of nonanionic surfactants which, may not be compatible, to provide a useful composition. In view of Lewis one skilled in the art would expect undue experimentation to arrive at a compatible composition. Applicants respectfully submit that Lewis would teach one skilled in the art away from the present invention.

Applicants respectfully submit that the Examiner has not provided a *prima facie* case of obviousness in view of the teachings of Lewis and the compositions which contain anionic surfactants. In view of the above discussion, Applicants respectfully

**Serial No. 09/831,432**

**Art Unit: 1751**

submit that the application is in condition for allowance and favorable consideration is requested.

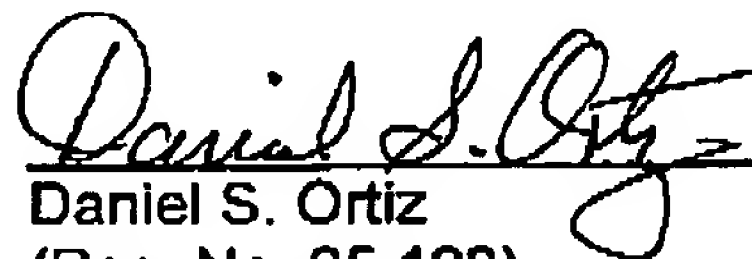
Claims 31-36 stand rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8; 1-12; 1-11 and 25; and 1-14 of U.S. Patent No. 6,602,838; 6,384,009; 6,683,035; and 6,660,706; respectively.

Applicants have reviewed the claims in the patents and do not believe that the present application is rejectable on the grounds of obviousness-type double patenting. The only teachings that the patents have in common with the present invention is that they contain alkoxylated fatty acid esters. The uses for the compositions are different from the present invention and the additional components are substantially different. Applicants respectfully request that the rejections on the grounds of obviousness-type double patenting be reconsidered and withdrawn.

Applicants submit that when rejecting the claims on obviousness-type double patenting over an issued patent, one can only look at the claims of the patent to formulate the rejection. Applicants therefore respectfully submit that the present invention would not be an extension of any monopoly which is provided by the claims in the patents on which the double patenting rejection is based.

Applicants do not believe that a Terminal Disclaimer is warranted at this time in view of the fact that no claims are indicated as allowable. Applicants submit that when claims are indicated as allowable, the double-patenting rejection will be revisited.

Respectfully submitted,



Daniel S. Ortiz  
(Reg. No. 25,123)  
Attorney for Applicants  
(215) 628-1141

Cognis Corporation, Patent Dept.  
300 Brookside Avenue  
Ambler, PA 19002

DSO/ras  
H:\AMEND\H3540.AMD.DOC